



**Public Employees for Environmental Responsibility**

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August 19, 2014

**RE: FOIA REQUEST**

Dear FOIA Officers:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning EPA's involvement with matters concerning suspected or actual toxic contamination at schools in the Santa Monica-Malibu Unified School District (SMMUSD) in California. Specifically, we request the following:

All emails and other written communications and notes of all communications between EPA employees Patrick Wilson, Steve Armann, Carmen Santos, Jeff Scott, Tom Huetterman, Jared Blumenfeld, Mathy Stanislaus and Barry Breen and the persons listed below, concerning or referencing suspected or actual toxic contamination with PCBs or other substances at schools in the SMMUSD. This request spans the time period of October 1, 2013 to the present.

Persons having communications with the above-listed EPA employees:

1. Other EPA employees and officials.
2. Senator Barbara Boxer, any member of her senatorial staff and any member of the staff of the Senate Committee on Environment and Public Works.
3. Members of the SMMUSD School Board: Ben Allen, Oscar de la Torre, Jose Escarce, Maria Leon-Vasquez, Laurie Lieberman, Ralph Mechur, and Nimish Patel, or the School Board as a



group.

4. Members of the Malibu City Council: Skylar Peak, John Sibert, Joan House, Lou La Monte, Laura Rosenthal, or the City Council as a group.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

“The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve... All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.”

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

*1. The records concern the operations or activities of the Government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA employees.

*2. The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.*

The information we seek concerns communications by EPA employees with members of Congress of their staff concerning toxic contamination issues at the SMMUSD.

*3. The release of requested records will contribute significantly to public understanding of the governmental activities*

The communications sought here are likely to shed light on how EPA employees and officials are carrying out their duties to implement the nation’s environmental laws, and whether political influence from members of Congress is affecting the implementation of those laws.

While a certain segment of the population who are teachers, students, parents and neighbors of the SMMUSD schools have a keen interest in the issues surrounding EPA’s involvement in the

testing for and remediation of toxic chemicals at SMMUSD schools, the general population also has a broader interest in the way EPA carries out its duties under various environmental laws when public land and buildings are suspected or found to be contaminated with toxic substances.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in PEER's newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, PEER has repeatedly demonstrated the ability to generate nationwide news coverage concerning activities occurring within the EPA.

*4. Disclosure would not serve a commercial interest of the requestor.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-7337. I look forward to receiving the agency's final response within 20 working days.

Cordially,

A handwritten signature in cursive script that reads "Paula Dinerstein".

Paula Dinerstein  
Senior Counsel